

actual owner for whom he acts as nominee. However, where the record owner is a banking institution, trust company, or brokerage firm, it may, provided it maintains such records as will permit a prompt substantiation of each payment of dividends made to the actual owner, file one Form 1087 for each actual owner for whom it acts as nominee and report thereon the total amount of the dividends paid to such actual owner (without itemization as to the issuing company, class of stock, etc.).

(2) *Exceptions.* The filing of Form 1087 is not required if:

(i) The record owner is required to file a fiduciary return on Form 1041, or a withholding return on Form 1042, disclosing the name and address of the actual owner or payee;

(ii) The actual owner or payee is a nonresident alien individual, foreign partnership, or foreign corporation and the tax has been withheld at the source before receipt of the dividends by the record owner;

(iii) The record owner is a banking institution, a trust company, or a brokerage firm which prepares the individual income tax return of the actual owner, provided the verification on the return with respect to the preparation thereof is executed by such record owner;

(iv) The record owner is a nominee of a banking institution or trust company exercising trust powers, and such banking institution or trust company is required to file a fiduciary return on Form 1041 which reflects the name and address of the actual owner or payee;

(v) The actual owner is an organization exempt from taxation under section 501(a) and is exempt from the requirement of filing a return under section 6033 and paragraph (g) of § 1.6033-1; or

(vi) The record owner is a banking institution or trust company exercising trust powers, or a nominee thereof, and the actual owner is an organization exempt from taxation under section 501(a) for which such banking institution or trust company files an annual return.

See § 1.1441-1, relating to withholding of tax on nonresident alien individuals, and § 1.1442-1, relating to withholding

of tax on nonresident foreign corporations.

(d) *Time and place for filing.* Returns made under this section on Forms 1096 and 1099 and Form 1087 for any calendar year shall be filed on or before February 28 of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 6628, 27 FR 12795, Dec. 28, 1962]

§ 1.6042-2 Returns of information as to dividends paid.

(a) *Requirement of reporting—(1) In general.* An information return on Form 1099 shall be made under section 6042(a) by—

(i) Every person who makes a payment of dividends (as defined in § 1.6042-3) to any other person during a calendar year. The information return shall show the aggregate amount of the dividends, the name, address, and taxpayer identifying number of the person to whom paid, the amount of tax deducted and withheld under section 3406 from the dividends, if any, and such other information as required by the forms. An information return is generally not required if the amount of dividends paid to the other person during the calendar year aggregates less than \$10 or if the payment is made to a person who is an exempt recipient described in § 1.6049-4(c)(1)(ii) unless the payor backup withholds under section 3406 on such payment (because, for example, the payee has failed to furnish a Form W-9 on request), in which case the payor must make a return under this section, unless the payor refunds the amount withheld pursuant to § 31.6413(a)-3 of this chapter.

(ii) Every person, except to the extent that he acts as a nominee described in paragraph (a)(1)(iii) of this section, who receives payments of dividends as a nominee on behalf of another person shall make a return of information under this section for the calendar year of the payment. The information return shall show the aggregate amount of the dividends, the name, address, and taxpayer identification number of the person on whose behalf the dividends are received, the

amount of tax deducted and withheld under section 3406 from the dividends, if any, and such other information as required by the forms. An information return is generally not required if the amount of the dividends received on behalf of the other person during the calendar year aggregates less than \$10. However, a return of information is not required under this section if—

(A) The record owner is, pursuant to section 6012(a) (3) or (4) and § 1.6012-3, required to file a fiduciary return on Form 1041 that is filed for the estate or trust disclosing the name, address, and identifying number of both the record owner and actual owner and furnishes Form K-1 to each actual owner containing the information required to be shown on the form, including amounts withheld under section 3406;

(B) The record owner is a nominee of a banking institution or trust company exercising trust powers, and such banking institution or trust company is, pursuant to section 6012(a) (3) or (4) and § 1.6012-3, required to file a fiduciary return on Form 1041 that is filed for the estate or trust disclosing the name, address, and identifying number of both the record owner and the actual owner and furnishes Form K-1 to each actual owner containing the information required to be shown on the form, including amounts withheld under section 3406; or

(C) The record owner is a banking institution or trust company exercising trust powers, or a nominee thereof, and the actual owner is an organization exempt from taxation under section 501(a) for which such banking institution or trust company files an annual return but only if the name, address, and identifying number of the record owner are included on or with the annual return filed for the tax exempt organization).

(iii) Every person who is a nominee acting as a custodian of a unit investment trust described in section 851(f)(1) and paragraph (d) of § 1.851-7 who, during a calendar year after 1968, receives payments of dividends in such capacity, shall make an information return on Forms 1096 and 1099, for such calendar year showing the information required by such forms and instructions thereto and the name, address, and

identifying number of the nominee identified as such. This subdivision shall not apply if the regulated investment company agrees with the nominee to satisfy the requirements of section 6042 and the regulations thereunder with respect to each holder of an interest in the unit investment trust whose shares are being held by the nominee as custodian and within the time limit for furnishing statements prescribed by § 1.6042-4, files with the Internal Revenue Service office where such company's return is to be filed for the taxable year, a statement that the holders of the unit investment trust with whom the agreement was made have been directly notified by the regulated investment company. Such statement shall include the name, sponsor, and custodian of each unit investment trust whose holders have been directly notified. The nominee's requirements under this subdivision shall be deemed met if the regulated investment company transmits a copy of such statement to the nominee within such period; provided, however, if the regulated investment company fails or is unable to satisfy the requirements of section 6042 with respect to the holders of interest in the unit investment trust, it shall so notify the Internal Revenue Service within 45 days following the close of its taxable year. The custodian shall, upon notice by the Internal Revenue Service that the regulated investment company has failed to comply with the agreement, satisfy the requirements of this subdivision within 30 days of such notice.

(2) *Definitions.* The term "person" when used in this section does not include the United States, a State, the District of Columbia, a foreign government, a political subdivision of a State or of a foreign government, or an international organization. Therefore, dividends paid by or to one of these entities need not be reported. For purposes of this section, a person who receives a dividend shall be considered to have received it as a nominee if he is not the actual owner of such dividend and if he was required under § 1.6109-1 to furnish his identifying number to the payer of the dividend (or would have been so required if the total of such dividends for the year had been \$10 or more), and

such number was (or would have been) required to be included on an information return filed by the payer with respect to the dividend. However, a person shall not be considered to be a nominee as to any portion of a dividend which is actually owned by another person whose name is also shown on the information return filed by the payer or nominee with respect to such dividend. Thus, in the case of stock jointly owned by a husband and wife, the husband will not be considered as receiving any portion of a dividend on that stock as a nominee for his wife if his wife's name is included on the information return filed by the payer with respect to the dividend.

(3) *Determination of person to whom a dividend is paid or for whom it is received.* For purposes of applying the provisions of this section, the person whose identifying number is required to be included by the payer of a dividend on an information return with respect to such dividend shall be considered the person to whom the dividend is paid. In the case of a dividend received by a nominee on behalf of another person, the person whose identifying number is required to be included on an information return made by the nominee with respect to such dividend shall be considered the person on whose behalf such dividend is received by the nominee. Thus, in the case of a dividend made payable to a person other than the record owner of the stock with respect to which the dividend is paid, the record owner of the stock shall be considered the person to whom the dividend is paid for purposes of applying the reporting requirements in this section, since his identifying number is required to be included on the information return filed under this section by the payer of the dividend. Similarly, if a stockbroker receives a dividend on stock held in street name for the joint account of a husband and wife, the dividend is considered as received on behalf of the husband since his identifying number should be shown on the information return filed by the nominee under this section. Thus, if the wife has a separate account with the same stockbroker, any dividends received by the stockbroker for her separate account should not be aggregated with

the dividends received for the joint account for purposes of information reporting. For regulations relating to the use of identifying numbers, see § 1.6109-1.

(4) *Inclusion of other payments.* The Form 1099 filed by any person with respect to payments of dividends to another person during a calendar year may, at the election of the maker, include other payments made by him to such other person during such year which are required to be reported on Form 1099. Similarly, the Form 1099 filed by a nominee with respect to payments of dividends received by him on behalf of any other person during a calendar year may include payments of interest received by him on behalf of such person during such year which are required to be reported on Form 1099.

(b) *When payment deemed made.* For purposes of a return of information, an amount is deemed to have been paid when it is credited or set apart to a person without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and is made available to him so that it may be drawn at any time, and its receipt brought within his own control and disposition.

(c) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081-1.

(d) *Cross-reference to penalty.* For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6042(a), see § 301.6721-1 of this chapter (Procedure and Administration Regulations). See § 301.6724-1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(e) *Magnetic media requirement.* For rules relating to permission to submit the information required by Form 1087

or 1099 on magnetic tape or other media, see § 1.9101-1. For the requirement to submit the information required by Form 1099 on magnetic media for payments after December 31, 1983, see section 6011(e) and § 301.6011-2 of this chapter (Procedure and Administration Regulations).

[T.D. 6628, 27 FR 12796, Dec. 29, 1962, as amended by T.D. 6677, 28 FR 10147, Sept. 17, 1963; T.D. 6879, 31 FR 3493, Mar. 8, 1966; T.D. 6883, 31 FR 6589, May 3, 1966; T.D. 7000, 34 FR 996, Jan. 23, 1969; T.D. 7187, 37 FR 13258, July 6, 1972; T.D. 8734, 62 FR 53474, Oct. 14, 1997; T.D. 8804, 64 FR 11378, Mar. 9, 1999; T.D. 8895, 65 FR 50406, Aug. 18, 2000]

§ 1.6042-3 Dividends subject to reporting.

(a) *In general.* Except as provided in paragraph (b) of this section, the term *dividend* for purposes of this section and §§ 1.6042-2 and 1.6042-4 means the amounts described in the following paragraphs (a) (1) through (3) of this section—

(1) Any distribution made by a corporation to its shareholders which is a dividend as defined in section 316; and

(2) Any payment made by a stockbroker to any person as a substitute for a dividend. Such a payment includes any payment made in lieu of a dividend to a person whose stock has been borrowed. See § 1.6045-2(h) for coordination of the reporting requirements under sections 6042 and 6045(d) with respect to such payments; and

(3) A distribution from a regulated investment company (irrespective of the fact that any part of the distribution may not represent ordinary income (i.e., may, for example, represent a capital gain dividend as defined in section 852(b)(3)(C)).

(b) *Exceptions—*(1) *In general.* For purposes of §§ 1.6042-2 and 1.6042-4, the amounts described in paragraphs (b)(1)(i) through (vii) of this section are not dividends.

(i) Amounts paid by an insurance company to a policyholder, other than a dividend upon its capital stock.

(ii) Payments (however denominated) by a mutual savings bank, savings and loan association, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares. See, however, section 6049 and the regulations under

that section for provisions requiring reporting of these payments.

(iii) Distributions or payments that a payor can, prior to payment, reliably associate with documentation upon which it may rely to treat as made to a foreign beneficial owner in accordance with § 1.1441-1(e)(1)(ii) or as made to a foreign payee in accordance with § 1.6049-5(d)(1) or presumed to be made to a foreign payee under § 1.6049-5(d) (2), (3), (4), or (5). However, such payments may be reportable under § 1.1461-1(b) and (c). For purposes of this paragraph (b)(1)(iii), the provisions in § 1.6049-5(c) (regarding rules applicable to documentation of foreign status and definition of U.S. payor and non-U.S. payor) shall apply. The provisions of § 1.1441-1 shall apply by substituting the term *payor* for the term *withholding agent* and without regard to the fact that the provisions apply only to amounts subject to withholding under chapter 3 of the Internal Revenue Code (Code).

(iv) Distributions or payments from sources outside the United States (as determined under the provisions of part I, subchapter N, chapter 1 of the Code and the regulations under those provisions) paid outside the United States by a non-U.S. payor or a non-U.S. middleman. For a definition of non-U.S. payor and non-U.S. middleman, see § 1.6049-5(c)(5). For circumstances in which a payment is considered to be made outside the United States, see § 1.6049-5(e).

(v) Distributions or payments for the period that the amounts represent assets blocked as described in § 1.1441-2(e)(3). The exemption in this paragraph (b)(1)(v) shall terminate when payment is deemed to occur in accordance with the rules of § 1.1441-2(e)(3).

(vi) Payments made by a foreign intermediary described in § 1.1441-1(c)(13) of amounts that it has received in its capacity as an intermediary and that are associated with a valid withholding certificate described in § 1.1441-1(e)(3)(ii) or (iii) and payments made by a U.S. branch of a foreign bank or of a foreign insurance company described in § 1.1441-1(b)(2)(iv) (other than a U.S. branch that is treated as a U.S. person) that are associated with a valid withholding certificate described in § 1.1441-